

REMARKS

Reconsideration of the application in view of the above amendments and the following remarks is requested. Claims 9 and 13-20 are in this application. Claims 9 and 13-16 have been amended. Claims 1-8, 10-12, and 21 have been cancelled.

The Examiner rejected claims 16-20 under 35 U.S.C. §102(b) as being anticipated by Kim (U.S. Patent No. 5,844,280). For the reasons set forth below, applicant respectfully traverses this rejection.

Claim 16 recites, in part,

"a device region that overlies and contacts the surface at a location where the gap region contacts the surface between the first and second wells, the device region at the location being free of a gate, and not lying below a gate."

In rejecting the claims, the Examiner argued that FIG. 3 of the Kim reference teaches a device region that overlies and contacts the gap region, and is free of a gate because the device region does not have to lie below the gate. Claim 16 has been amended to clarify the position of the device region, which must contact the surface at the location that the gap region contacts the surface.

As shown in FIG. 3 of Kim, the gap region of substrate 1 only contacts the surface below gate 24. Since the device region of claim 16 must contact the surface at the location that the gap region contacts the surface, it is not possible for a device region of Kim to lie anywhere but under gate 24. Thus, since a device region of Kim must lie below gate 24, the device region of Kim can not be read to be the device region required by claim 16.

As a result, claim 16 is not anticipated by the Kim reference. In addition, claims 9, 13-15, and 17-20 depend either directly or indirectly from claim 16. Thus, claims 9, 13-15, and 17-20 are not anticipated by Kim for the same reasons as claim 16.

The Examiner also rejected claims 8-15 and 21 under 35 U.S.C. §103(a) as being unpatentable over Kim in view of Metz et al. (U.S. Patent No. 5,400,202). As noted above, claims 8, 10-12, and 21 have been cancelled, and claims 9 and 13-15 have been amended to depend from claim 16. Thus, claims 9 and 13-15 are patentable over Kim in view of Metz for the same reasons that claim 16 is not anticipated by Kim.

Thus, for the foregoing reasons, it is submitted that all of the claims are in a condition for allowance. Therefore, the Examiner's early re-examination and reconsideration are respectively requested.

Respectfully submitted,

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